

NPDES MS4 General Permit Program in the State of Delaware



Beau Croll, Environmental Scientist
Judy Jordan, Environmental Scientist
John Rebar Jr., Program Manager

Division of Water
Surface Water Discharges Section
Department of Natural Resources & Environmental Control



What is a MS4?

A municipal separate storm sewer system (MS4) is:

A conveyance or system of conveyances... owned by a State, city, town, or other public entity that discharges to waters of the U.S. and is:

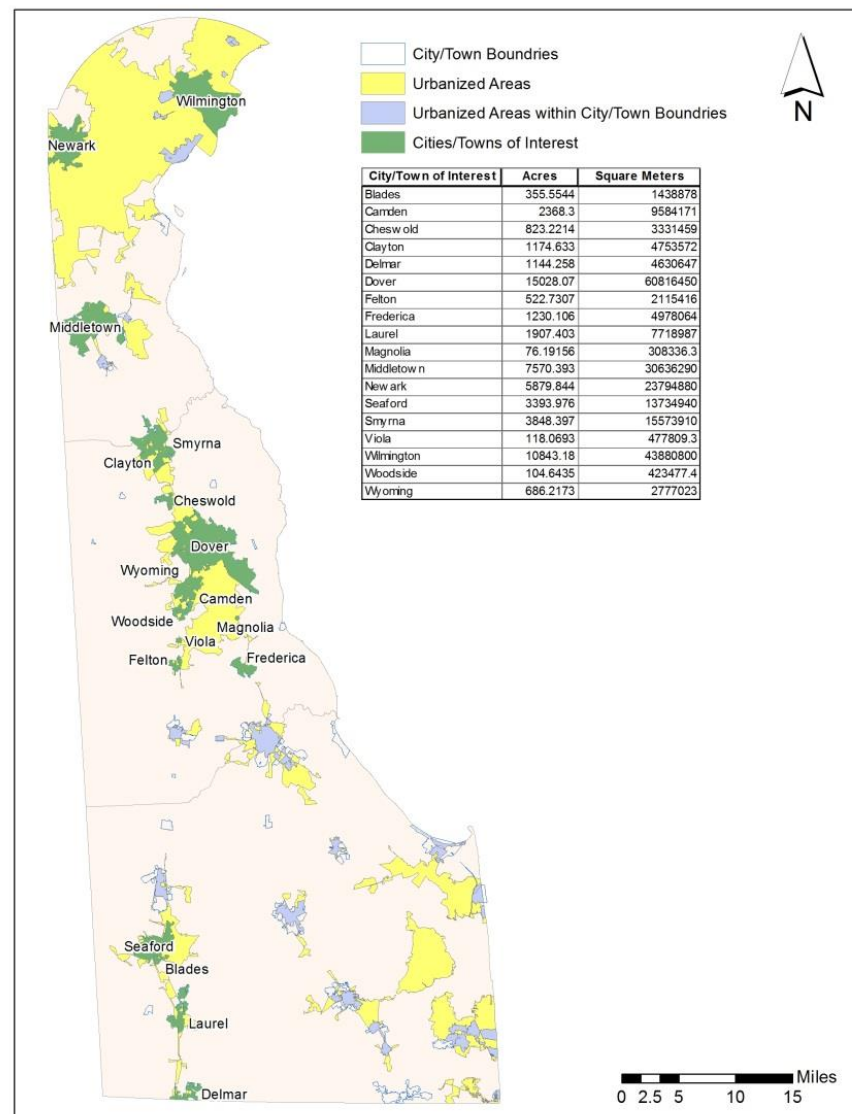
- designed or used for collecting or conveying storm water
- not part of a Publicly Owned Treatment Works
- not a combined sewer



NPDES Stormwater Regulations



- ▶ EPA's Phased approach
 - Phase II (1998) – regulates discharges from small MS4s that are located within a census defined “urbanized area” as designed by the most recent decennial census
 - Terms and conditions to control or reduce the discharge of storm water pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act (40 CFR § 122.34)



Permit History



- ▶ Preliminary or Pre-Notice Draft Phase II General Permit (2015)
- ▶ Informal Comment Period: November 5, 2015 to January 31, 2016
- ▶ Department receive significant feedback with many good and thoughtful comments
 - concerns regarding costs and lack available financial resources
 - requests for clarification or guidance regarding permit requirements
 - requests to modify proposed timelines and due dates



Department's Response

- ▶ Revised Pre-Notice Draft NPDES Phase II MS4 General Permit
- ▶ Draft Tier I General Permit
 - MS4s currently discharging pursuant to a NPDES MS4 Permit issued by the Department
- ▶ Draft Tier II General Permit
 - MS4s not currently discharging pursuant to a NPDES MS4 Permit issued by the Department
 - Includes a draft waiver proposal designed in accordance with 40 CFR § 123.32

Proposed Permitting Schedule



- ▶ On Thursday June 22, 2017, the Revised Pre-Notice Draft Tier I & II General Permits available for review on the Department's MS4 website:
<http://www.dnrec.delaware.gov/wr/information/swdinfo/pages/ms4.aspx>
- ▶ Between late June & early July: hold individual meetings with permittees
 - a number of which have already been scheduled
- ▶ Public Notice: late July
 - formal 30-day public comment period
 - prior to the start of the public notice period formal notification will be sent to all permittees



Public Notice Process

- ▶ Written comment may be submitted prior to the opening of the public notice period
- ▶ Department will not consider comments after the close of the public notice period
- ▶ Remember that the permits are DRAFTS (**including the waiver component**) and may be further revised based on comments or additional information received from permittees, the EPA, or general public
- ▶ In addition, a public hearing on the permits may be requested during the public notice period



Proposed Permit Requirements

40 CFR § 122.34 & 122.41

Applying for Permit Coverage



- ▶ All current and newly identified MS4s must submit a Notice of Intent (NOI) for coverage under the GPs
 - Basic Applicant Contact Information
 - Names, designated use, impairment status of receiving waters and if TMDLs exists
 - Certification statement/signature of a Responsible Official
- ▶ NOI submission within 60 days for Tier I
- ▶ NOI submission within 180 days for Tier II



Storm Water Pollution Prevention & Management Program

- ▶ Details “exactly how” the permittee will achieve permit compliance
 - Details all Best Management Practices (BMPs), control measures, and all other permit implementation requirements
 - Establishes implementation plans for the Minimum Control Measures (40 C.F.R. 122.34)



MS4 GP Minimum Control Measures



- ▶ Minimum Components
 - Public Education/Public Involvement
 - Illicit Discharge, Detection and Elimination
 - Construction Site Stormwater Runoff Control
 - Post-Construction Storm Water Management
 - Pollution Prevention and Good Housekeeping
- ▶ For each Minimum Component:
 - BMPs, measureable goals, timelines and responsible party(ies)

MCM: Public Education/Outreach



Tier I Permit

- ▶ 2 Educational Outreach Events Per Year
- ▶ 2 Surveys Per Permit Term
- ▶ 1 Impression Per Person

Tier II Permit

- ▶ 1 Educational Outreach Event Per Year
- ▶ 1 survey per permit term
- ▶ 1 Impression Per Person

MCM: Illicit Discharge Detection and Elimination



Tier I Permit

- ▶ Ordinance to be maintained or modified
- ▶ Inspection Program for IDDEs due 24 months from NOI approval
- ▶ Dry Weather Screening Program due 24 months from NOI approval
- ▶ Mapping due 24 months from NOI approval
- ▶ Industrial Stormwater Inventory due with annual reports (in collaboration with the Department)

Tier II Permit

- ▶ Ordinance developed within 36 months from NOI approval
- ▶ Inspection Program for IDDEs due 46 months from NOI approval
- ▶ Dry Weather Screening Not Requirement
- ▶ Mapping due 46 months from NOI approval
- ▶ Industrial Stormwater Inventory due with annual reports (in collaboration with the Department)

MCM: Construction and Post-Construction Storm Water Management



No significant changes from the previous Draft Permit

Typically requirements of this part are met via the Sediment and Storm Water Programs through the use of Delegated Agencies and the development of MOUs



MCM: Pollution Prevention & Good Housekeeping



Tier I Permit

- ▶ Inventory/inspection program of municipal operations maintained in annual reports
- ▶ Street Sweeping program no later than 12 months from NOI approval
- ▶ Catch basin cleaning program established no later than 12 months from NOI approval
- ▶ Programs to reduce litter, address snow/ice removal, salt storage, pesticide/herbicide application and other municipal operations due upon SWPP&MP approval

Tier II Permit

- ▶ Inventory program maintained in annual reports
- ▶ Street sweeping program established within 36 months of NOI approval
- ▶ Catch basin cleaning program not required
- ▶ Programs to reduce litter, address snow/ice removal, salt storage, pesticide/herbicide application and other municipal operations due upon SWPP&MP approval

Reporting and Records



- ▶ Department will provide templates and guidance for annual report writing
<http://www.dnrec.delaware.gov/wr/information/swdinfo/pages/ms4.aspx>
- ▶ Examples of Records required to be maintained or submitted in the annual report:
 - Monitoring records (if applicable)
 - Inspection records
 - Training records
 - Correspondence
 - Construction documents (if applicable)
 - MOA and IJAs
 - Mapping
 - IDDE forms



TMDL Plans

- ▶ Tier I General Permit Only
- ▶ Response to concerns for meeting TMDL requirements
 - Draft Due 24 Months from NOI approval
 - Full Implementation Due 48 Months from NOI approval
 - Wet Weather Monitoring Not Required
- ▶ TMDL Plan Example
- ▶ <http://law.lis.virginia.gov/admincode/title9/agency25/chapter890/section40/>
- ▶ Example of Projects:
- ▶ <https://www.pca.state.mn.us/water/total-maximum-daily-load-tmdl-projects>
- ▶ Pollution Control Strategies:
- ▶ <http://www.dnrec.delaware.gov/swc/wa/pages/pollutioncontrolstrategiesandtributaryactionteams.aspx>

Tier I SWPP&MP Timeline



Timeframe	Action
12 months from NOI Authorization to Discharge	Draft SWPP&MP Due
12 months from NOI Authorization to Discharge	Draft IJA Due
18 months from NOI Authorization to Discharge	Final SWPP&MP Due
18 months from NOI Authorization to Discharge	Final IJA Due
24 months from NOI Authorization to Discharge	Commencement of SWPP&MP

Tier II SWPP&MP Timeline



Timeframe	Action
12 months from NOI Authorization to Discharge	Draft SWPP&MP Outline Due
12 months from NOI Authorization to Discharge	Draft IJA Due
24 months from NOI Authorization to Discharge	Draft SWPP&MP Due
36 months from NOI Authorization to Discharge	Final SWPP&MP Due
36 months from NOI Authorization to Discharge	Final IJA Due
42 months from NOI Authorization to Discharge	Commencement of SWPP&MP

MS4 General Permit Waiver



- ▶ 40 CFR 122.32



40 CFR 122.32 Waiver Criteria for Small New MS4s Pop <10,000

- Permitting authority evaluated all waters that receive discharge and determined that:
 - stormwater controls are “not needed based on wasteload allocation that is part of TMDL”
 - “future discharges from the MS4 do not have the potential to result in significant WQ impacts”



Small New MS4s under 1000

- 40 CFR 122.32 (d)
Population <1000
- System “**not contributing substantially**” to pollutants loadings of MS4
- Stormwater controls **not needed based on wasteload allocation** that are part of TMDL

► Photo by Delaware State News



Waste Load Allocations

- ▶ Kent and Sussex Water quality impairments based on N, P, DO and Bacteria
- ▶ TMDLs assign load reductions by category (eg, agricultural, urban, etc.)



2010 Designated MS4s in Delaware

<u>MS4</u>	<u>Population*</u>	<u>Watershed</u>	<u>Pollutants Causing Impairment</u>
Blades	1241	Nanticoke	TN, TP, DO, Bacteria
Camden	3464	St. Jones	TN, TP, DO, Bacteria
Cheswold	1380	Leipsic	TN, TP, DO, Bacteria
Clayton	3037	Smyrna	TN, TP, DO, Bacteria
Delmar	1597	Broad Cr/Pocomoke	TN, TP, DO, Bacteria
Felton	1310	Murderkill	TN, TP, DO, Bacteria
Frederica	774	Murderkill	TP, TN, DO, Bacteria
Laurel	3708	Broad Creek	TP, TN, DO, Bacteria
Magnolia	225	St. Jones	TP, TN, DO, Bacteria
Seaford	6928	Nanticoke	TP, TN, DO, Bacteria
Smyrna	11147	Smyrna	TP, TN, DO, Bacteria
Viola	157	Murderkill	TP, TN, DO, Bacteria
Woodside	181	Murderkill	TP, TN, DO, Bacteria
Wyoming	1313	St. Jones	TP, TN, DO, Bacteria

Watershed Assessment Consultation: Loads from Towns under 1000 Population

- ▶ Do not contribute substantially
- ▶ The Department proposes to waive:

Frederica, Magnolia, Viola,
Woodside



If Population 1 000–10,000 and Discharge to ERES Waters...

- MS4 contributes <1% of pollutant load
- Waive because meets federal standard:
- stormwater controls are not needed based on wasteload allocation:
Blades



Small New MS4s with population 1 000 – 10,000, non-ERES...

DNREC proposes to waive if:

- The MS4 contributes <5% of total load
- Not in ERES waters:
- Cheswold, Clayton, Felton, Wyoming



Final Category of Waivers: Towns straddling state border

- ▶ Criterion: Defer to Downstream state's designation
- ▶ Delmar
- ▶ Maryland waived Delmar, MD
- ▶ DNREC proposes to waive Delmar, DE



Summary of Waivers Based on *Proposed* Criteria

1. Population <1000:

- Frederica, Magnolia, Viola, Woodside

2. Population 1000–10,000 & ERES, but <1% pollutant discharge: **Blades**

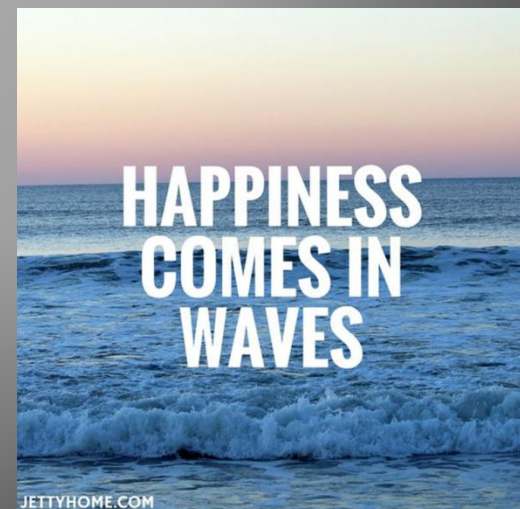
3. Population 1000–10,000 non-ERES, <5%

- Cheswold, Clayton, Felton, Wyoming

4. Town Straddles state border, defer to downstream state: **Delmar**

Caveats:

- This is a proposed policy that has to go through comment process.
- The Department reserves the right to reconsider new information.
- The waivers are part of the GP, so last only as long as the GP (5 years).



Questions / Comments

- ▶ Beau Croll (Beau.Croll@state.de.us)
- ▶ Judy Jordan (Judith Jordan@state.de.us)
- ▶ John Rebar (John.Rebar@state.de.us)
- ▶ Surface Water Discharge Section (302) 739-9946